

Assembly Bill 1694 (Committee on Revenue and Taxation) Chapter 200
Fire Detection Systems; New Construction Exclusion

Tax levy; effective July 28, 1999. Amends Section 74 of the Revenue and Taxation Code.

This bill specifies that “equipment used to transmit fire alarm activations and related signals to a remote location” is included in the definition of a “fire detection system.” In addition, it specifies that (1) no part of a fire detection “system” shall be classified as personal property and (2) no part of the “system” should be excluded because it is owned or controlled by a person other than the owner of the property upon which the fire detection system was constructed or installed.

Sponsor: Assembly Revenue and Taxation Committee

Law Prior to Amendment:

Article XIII A, Section 2, subdivision (c) of the California Constitution gives the Legislature the authority to exempt from the definition of new construction “[t]he construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature.” The Legislature enacted Revenue and Taxation Code Section 74 to set forth detailed definitions and requirements granting this new construction exclusion for fire-related improvements made to an existing building. With respect to a fire detection system, Section 74 defines it to mean “any system or appliance intended to detect combustion, or the products thereof, and to activate an alarm or signal, whether audio, visual, or other.”

In General:

Property Tax System. Article XIII, §1 of the California Constitution provides that all property is taxable, at the same percentage of “fair market value,” unless specifically exempted, or authorized for exemption, within the Constitution.

Article XIII A, §2 of the California Constitution defines “full cash value” as the assessor's opinion of value for the 1975-76 tax bill, or, thereafter, the appraised value of property when purchased, newly constructed, or a change in ownership has occurred. This value is generally referred to as the “base year value”. Barring actual physical new construction or a change in ownership, annual adjustments to the base year value are limited to 2% or the rate of inflation, whichever is less. Article XIII A, §2 provides for certain exclusions from the meaning of “change in

ownership” and “newly constructed” as approved by voters via constitutional amendments.

New Construction Exclusions. With respect to any new construction the law requires the assessor to determine the added value upon completion. The value is established as the base year value for those specific improvements and is added to the property’s existing base year value. When new construction replaces existing improvements, the value attributable to those preexisting improvements is deducted from the property’s existing base year value. (R&T Code §71) Revenue and Taxation Code §70(c), §70(d), §74, §74.3, §74.5 and §74.6 exclude certain specified improvements made to real property from the definition of new construction. These provisions relate to seismic safety improvements, fire prevention or suppression improvements, accessibility improvements for disabled persons, and improvements reconstructed after disaster. Constitutional authorization exists for these specific types of improvements as provided in Article XIII A, §2 of the Constitution. Consequently, while these improvements may increase the value of the property, the additional value is exempt from taxation.

Background:

Proposition 31 (SCA 58 (Boatwright), Resolution Chapter 56 of 1984) was approved by voters at the November 6, 1984 general election. (A similar constitutional amendment – Proposition 7 (ACA 53 (Frizzelle), Res. Chap. 49 had failed passage at the November 1982 general election.) The intent of the exclusion was to benefit the owner of the building in which the detection system is installed, by providing a shield against any increase in property taxes that might otherwise result from retrofitting the building with fire safety equipment. According to the analysis of the Assembly Committee on Revenue and Taxation, dated June 4, 1984, local ordinances were requiring that buildings be retrofitted because of a number of fire tragedies. Of particular interest were hotels and motels. The California Hotel and Motel Association proposed the change in the Constitution to reduce the overall cost of making the fire safety improvements.

Comments:

1. **Purpose.** To ensure that all the components of a fire detection system that are installed in a pre-existing structure are eligible for the new Section 74 construction exclusion regardless of whether the property owner owns the fire detection system.
2. **A few counties have reasoned that the Section 74 exclusion is only available when the owner of the real property also owns the fire detection system.** In certain instances, the *contract* between the property owner and alarm company specifies that the alarm system company “owns, installs and monitors” the detection systems. Thus, because the contract specifies that the alarm company

owns the elements making up the fire detection system, some assessors have not granted the new construction exclusion and have, instead, assessed this property to the alarm company as personal property. Board staff has found this to be improper.

3. **It is the Board's view that fire detection systems are not personal property but rather they are fixtures to real property.** Section 104, subdivision (c) provides that real property includes "improvements," and Section 105 defines improvements to include: "(a) All buildings, structures, fixtures, and fences erected on or affixed to the land." Property Tax Rule 122.5 defines fixtures and sets out the elements of "annexation." Generally, a fire detection system will be physically annexed to improvements with the intent that it remain annexed indefinitely by means that are normally used for permanent installation within the meaning of Rule 122.5. Thus, in the Board's view a fire detection system is a real property fixture and any installation of a system is exempt under Section 74. In addition, in Property Tax Rule 124, subdivision (b), both "Alarm system" and "Sprinkler system, fire" are listed as examples of an improvement.
4. **The May 24th amendments reflect a suggestion to amend existing Section 74 rather than create a new statute.** The April 29th version of this bill would have added Section 210 of the Revenue and Taxation Code to essentially repeat the existing provisions found in Section 74 except that 1) it did not frame the exemption in terms of a "new construction" exclusion (and consequently did not provide for the exemption of fire-related egress improvements which are generally structural improvements to a building) and 2) it included the phrase "all equipment used to transmit fire alarm activations and related signals to a remote location" in the definition of a "fire detection system."